

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Hon. Robert J. Jonker

v.

Case No. 1:19-cr-00181

DUANE GARY UNDERWOOD, II,

Defendant.

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ORDER OF DETENTION

This matter is before the Court on the government's motion for pretrial detention. Defendant has been charged in a five-count Superseding Indictment. Count 1 charges him with conspiracy to distribute a controlled substance, in violation of 21 U.S.C. §§ 846 and 841(a)(1); counts 2 and 8 charge him with possession with intent to distribute a controlled substance, in violation of 21 U.S.C. § 41(a)(1) and (b)(1)(B)(viii); count 6 charges defendant with possession of a firearm, in violation of 18 U.S.C. §§ 922(j) and 924(a)(2); and count 7 charges him with possession of a firearm in furtherance of drug trafficking, in violation 18 U.S.C. §§ 924 (c)(1)(A)(i). Given the nature of the charges, there is a statutory rebuttable presumption in favor of detention.

The government sought defendant's detention on the basis that he is a danger to the community, 18 U.S.C. § 1342(f)(1) and that he poses a significant risk of non-appearance, 18 U.S.C. § 3142(f)(2)(A). The Court conducted a hearing on December 30, 2021, at which defendant was represented by counsel.

Having considered the information presented at the hearing, the parties' oral submissions, and the information in the Pretrial Services Report, and for the reasons stated on the record, the Court finds that defendant has not rebutted the statutory presumption of detention as to significant risk of flight. The Court also finds, however, as explained on the record, that the government has met its burden of proving by preponderant evidence, that defendant poses a significant risk of non-appearance and by clear and convincing evidence that he poses a danger to the community. The Court finds, as explained on the record, that there is no condition or combination of conditions that will ensure defendant's appearance or the safety of the community. Accordingly,

IT IS ORDERED that defendant is committed to the custody of the Attorney General pending trial.

DONE AND ORDERED on December 30, 2021.

/s/ Phillip J. Green
PHILLIP J. GREEN
United States Magistrate Judge